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Non-Liberal Democracy and the Possibilities of Its Consolidation

Abstract: The notion of non-liberal democracy has become an inseparable element of the debate on the crisis of liberal democracy. For some scholars and journalists, non-liberal democracy is a consequence of the crisis of liberal democracy. It should be pointed out that when indicating the causes of this crisis in the economic, political, and cultural spheres, researchers rarely address the issue of the legitimacy of identifying democracy as non-liberal and its characteristics. Moreover, no one has initiated a broad debate on the possibility of a retreat from non-liberal democracy and the conditions that must be met to return to liberal democracy. That is why this paper attempts to describe the phenomenon called non-liberal democracy and analyse the conditions which should be fulfilled, both in political and social terms. It is to enable the return to the idea of liberal democracy.

Keywords: *crisis, democracy, liberal democracy, non-liberal democracy, democratic backsliding*

The notion of non-liberal democracy has become an inseparable element of the debate on the crisis of liberal democracy. For some scholars and journalists, non-liberal democracy is a consequence of the crisis of liberal democracy. It should be pointed out that when indicating the causes of this crisis in the economic, political and cultural spheres, researchers rarely address the issue of the legitimacy of identifying democracy as non-liberal and its characteristics. Moreover, no one has initiated a broad debate on the possibility of a retreat from non-liberal democracy and the conditions that must be met to return to liberal democracy. That is why this paper attempts to describe the phenomenon called non-liberal democracy and analyse the conditions which should be fulfilled, both in political and social terms, to enable the return to the idea of liberal democracy.

The concept of non-liberal democracy first appeared in the public space owing to Zakaria (2003, pp. 12–16), who used this term to describe regimes established in Balkan states after the war in the 1990s. For Zakaria, the notion of non-liberal democracy had negative connotations. It referred to regimes in the states with no constitutional and liberal roots. For contemporary politicians, who tend to use the term non-liberal democracy quite frequently, it has a positive meaning and is a remedy for the crisis of democracy in the liberal form. Scholars and journalists, in turn, raise doubts concerning the concept's legitimacy. There are at least two stances: one justifies using the term non-liberal democracy; the other negates it. One of the opponents of rejecting non-liberal democracy is Jeffrey C. Issac, who argues that phenomena must be first named to be understood, enabling political analysis. Moreover, he emphasises that non-liberal democracy is a social concept that registers tensions between citizens and political elites and indicates the direction of the development of political ambitions. However, what is the most important reason for which Isaac (2017) recognises the legitimacy of the concept of non-liberal democracy is its existence as a "normative obligation", which should be subject to criticism from all those who affirm the values of autonomy of an individual and political pluralism (Daly, n.d., pp. 9–10).

However, this view is not common and has been widely criticised. There is no doubt that non-liberal democracy belongs to the category of hybrid regimes, which, according to Bazóki (2017), also include electoral authoritarianism. In his criticism of Issac, he indicated that the notion of democracy should not be ascribed to everyone involved in building its façade in any way. It is all the more so because Isaac himself stated that non-liberal democracy was a "dictatorship with democratic façade" (Issac, 2017).

Thus, it is safe to say that it is an oxymoron that helps legitimise solutions that have nothing to do with democracy. The use of the notion of democracy in such an expression is unjustified, confusing and harmful to the phenomenon itself. Some researchers even emphasise that it should be referred to as "hybrid democracy", while others believe it is a form of populist democracy (Műller, 2016, p 34). It is also often pointed out that there is a problem with using the concept of the presence of post-truth and the simplified definition of democracy, reducing the phenomenon to procedural aspects related to elections. However, there is no doubt that "non-liberal democracy theoretically sounds like an oxymoron, but it can exist in the real world as the liquid, non-crystallised and often externally limited configuration among political regimes" (Bazóki, 2017; Rhoden, 2013, pp. 560–578).

Despite the critical attitude to the concept of non-liberal democracy, it should be noted that it is a convenient and suitable instrument for describing the relation between democracy and liberalism and the resulting problems. First of all, it refers to the attempt to reconcile the idea of equality (democracy) with the idea of freedom (liberalism), which, consequently, leads to a tension between constitutional liberalism (which guarantees the freedoms of individuals) and democracy (which ensures – through universal elections – equal participation in exercising power to everyone). The scope of central authority causes another tension because constitutional liberalism involves limiting it, while democracy inherently consists

in gaining and exercising power in the name of the sovereign, which brings legitimate concern about undermining individual freedom. It may disclose the "non-liberal character [of democracy] when, for example, the majority of the society does not object to the abuses of the executive power or restrict the rights of minorities (Kotan & Piotrowski, 2020, pp. 13–16). It stems mainly from "claiming absolute sovereignty" by the authority, which undoubtedly favours its centralisation on behalf of the majority, which supported the winning party in the elections. Thus "democratic governments, invoking the representation of the nation, limit the competence and powers of other fractions of the society both in the horizontal (other spheres of state power) and vertical dimension (local and regional governments, private entrepreneurship, non-governmental organisations, etc.)" (Zakaria, 2003, p. 45). However, it should be pointed out that liberalism can distort a political system to function basically to the benefit of political elites while ignoring public sentiment and social needs (Mounk, 2018, p. 127).

These two interrelated phenomena are undoubtedly conducive to the penetration of authoritarian elements into liberal democracy, causing a retreat from its principal values: respect for democratic institutions (including their representativeness), the pluralism of values, the accountability of those in power, inter-party and electoral rivalry, the separation of powers, and the protection of the rights of minorities. It should also be remembered that political competition in liberal democracy leads to a situation in which one (or many) of electoral players remain in opposition as the result of sovereign decisions made by the society. However, it does threaten with exclusion from the political scene: the winners (those in power) and the losers (opposition) of the elections constitute the representation of society in the different spheres (Krastev, 2013, p. 13).

There are at least a few reasons for deviating from such attributes of liberal democracy. We can begin with the mistakes made by the governing elites in this regime. It became evident that self-righteousness often turned into cynicism. It gave a symbolic rise to a retreat from liberal democracy both in Hungary (Prime Minister Ferenc Gyurcsany's recorded and, later broadcast, comment) and Poland (the so-called "octopus scandal"). In both countries, the society lost a sense of participation in governing and of being represented by the authorities, which contributed to a dramatic decrease in social trust, including trust in the government. What also played a part was the political elites' ideas on how to solve new problems in the public space: terrorism, climate crisis, etc. The lack of a new way of thinking about politics and social or economic challenges was not conducive to the consolidation of democracy; quite the contrary, it led to its de-consolidation.

In this case, the economic crisis of 2007 and its implications turned out to be a spark. The austerity policy pursued by many countries led to the erosion of the welfare state, which in turn weakened the middle class. As Eggel (2018, p. 9) put it: "liberal democracies fail to improve citizens' living standard. It added to the feeling of uncertainty, fuelled by the development of new technologies – automation and artificial intelligence – which made people perceive the labour market as volatile and "liquid" rather than stable. These

phenomena were used on the way to non-liberal democracy as its followers proposed simplified visions and simple solutions to quite complex political events, usually based on national rather than transnational programmes (Zakaria, 2003, pp. 45–48). Thus, democracy began to lose its most significant characteristics, including uncertainty, freedom, and equality. It led to the shift of democracy towards the non-liberal side, i.e., "infecting" it with the attributes of authoritarian regimes: predictability in politics and civil life (Műller, 2019, p. 56).

Among the causes of the emergence of non-liberal democracy is also what Eggel (2018, p. 9). quite inaccurately referred to as the "amnesia of the young". It may be noted that while young people show increasing support for non-democratic solutions, it does not result from "amnesia" but their lack of experience of living in non-democratic regimes. It contributed to the recognition of individual freedom as a constant phenomenon in every person's life and the unthinking perception of the historical narration created by the government. "Fabricating" a narration of the past by the representatives of non-liberal democracy has little to do with facts but is strictly related to all kinds of founding myths or tales concerning, for example, national unity and monism. However, a generational change does not only involve the lack of knowledge resulting from the logic of a citizen's age but is also the consequence of "tiredness" with the presence of liberalism in all spheres of human activity (Guetta, 2021, pp. 30–42).

This phenomenon is favoured by two factors: the ability to operate society's emotions and social media. Emotions are mostly used to shape and change the identity policy. It was observed in Europe in 2015 during the so-called immigration crisis. It should be added that it is wrongly assumed that activity in shaping emotions in the context of identity is the domain of populist right-wing circles. We may indeed see a tendency to rebuild the nation's identity or of the society "forever". However, left-wing parties also appeal to emotions, wanting to shape the identity policy in line with the principles of political correctness (Eggel, 2018, p. 7). Social media are an instrument used to achieve this purpose. Besides the fact that they are now a source of shaping public opinion, they do not create enough space for rational dialogue. Thus, they are becoming the place where post-truth policy is reinforced and the foothold for hate speech, lies or activities aimed at the polarisation of society. The last of these phenomena is particularly conducive to strengthening non-liberal democracy.

As mentioned before, one factor that allows us to use the notion of non-liberal democracy in the public space is the conviction that free and universal elections are the principal (and sometimes the only) feature of democracy. Interestingly, those who are the proponents and propagators of non-liberal democracy as a form of the political regime have come to power legally. During the electoral campaign, they used populist rhetoric similar to the conservative or nationalist narration as an "energetic alternative to the allegedly anaemic liberal-cosmopolitan model of democracy" (Eggel, 2018, p.8). In this context, it should be pointed out that the introduction of non-liberal democracy is possible – as Antoszewski (2018, p. 13) put it – "in the right psychological climate – in the situation in which resent-

ments and prejudices present in a given society can be used and fuelled, creating the feelings of threat, fear and anger".

It is possible in societies with no rooted liberal values and a breeding cultural ground for the ideas connected with traditionally strong religiousness, the romantic attitude to historical experience, and where democracy has never been a consolidated regime. It is all the more so because the values of democracy are opposed to the eclectic formula appealing to tradition, founding myths, and conservative, socialist or religious ideas. However, their underlying feature has to be an aversion to liberalism (Kelemen, 2017, p. 31).

Those who win adopt the rule "the winner takes all". Their objective in the electoral campaign is to gain the majority, allowing them to revise (Hungary) or bypass (Poland) the constitution. That is why they attack constitutional courts to take control of them. Doing this, they usually indicate political institutions' weaknesses and negative social evaluations. According to Antoszewski (2018, p. 18), "this particularly concerns anti-majority institutions, which are easily blamed for lowering the level of efficiency of the executive branch and hampering the implementation of 'the will of the nation'". The aim is also to establish the tyranny of the majority by mythologising unity between the "good authority", which settles accounts with anti-majority institutions, and the nation. Revising the constitution or filling positions in constitutional courts with trusted people is the beginning of consolidating the rule of non-liberal democracy. Its aim in this respect is to restrict the activity of those institutions, which may prevent the non-liberal authority from implementing a specific vision. Thus, such an authority attempts to reduce the significance of the separation of powers and introduce central supervision over all public institutions. It leads to subjecting state institutions to the national interest, defined by the winning (ruling) party or coalition. Consequently, this leads to the marginalisation of freedom in the individual sense for the sake of the sovereignty of the nation, which is reflected in the rejection of the constitutional order.

The next stage involves suppressing the activity of civil society with all available methods – the introduction of the right, which limits the possibility of manifesting one's views or the use of financial instruments which support only those non-governmental organisations that are favourable to the authorities. Attempts to reduce activity also concern the opposition because its functioning in liberal democracy is based on the conviction that politics is a sphere in which different proposals and views clash to reach a compromise. In non-liberal democracy, representation is defined quite conversely: there is no place for the pluralism of values because it is only the process of "discovering and formulating the common will of the society" (Kelemen, 2017, p. 31). That is why politics is becoming the area of the battle between the followers of non-liberal democracy and the proponents of liberal democracy, and the goal of this battle is the long-term victory of the former. Thus, politics has nothing to do with the sphere of reaching agreement as the result of axiological pluralism. Instead, it is becoming the arena of social polarisation, ultimately conducive to centralising and consolidating power.

What serves the purpose of weakening the opposition and the civil society, as well as centralising power and the re-election of the ruling party, are the instruments of propaganda. To this end, public media are mainly used, although some private media may also help owing to some financial incentives. The non-liberal authorities also often use the tools of direct democracy or social sentiment surveys. As it was mentioned earlier, social media play an important part too. All these elements allow the ruling party to be re-elected and triumphantly justify the changes it introduces with the "will of the people".

This monistic perception of the society, referred to as the "sovereign" or the "people", constitutes the central category of propaganda in non-liberal democracy. It was best expressed by Victor Orban, who, in his speech, appealed to shift emphasis from individual to community action and stressed that "the Hungarian nation is not just an empty set of individuals, but it is a community, which should be organised, strengthened and built. Hence, in such an approach, this new state that we are building in Hungary is not a liberal one. It does not negate the principal values of liberalism, such as freedom and a few others, but it does not make this ideology the central element of state organisation. Instead, it shows a specific, national attitude to it" (Orban, 2014).

"The will of the majority" is also associated, as Karwat (2012, p. 230) indicates, with the role of the political leader. His or her strength does not lie in the powers specified by the legal system but in this "will of the majority", which gives social legitimacy to rule. It causes the aversion to or even ignorance of constitutional norms. "The will of the majority" allows politicians to rule in line with their own assumptions stemming from the existing power structure and social support. To affirm their activities, they use the mechanisms and forms of direct democracy, such as rallies, plebiscites, or referenda. They also naturally serve the purpose of the authorities' propaganda of success.

While agreeing with Issac that non-liberal democracy is a "dictatorship with democratic façade", it should be strongly emphasised that it is not identical to the authoritarian regime in its classic definition. There are still free elections, active political parties, and a relatively weak coercive apparatus. Physical violence is also far less frequently used (at least based on the principles of the law) than in the authoritarian regime. Non-liberal democracy is simply a regime which chooses a fairly pragmatic manner of operations based on an eclectic political programme (originating from different ideologies), sometimes taking advantage of quite flexible forms of authoritarian management. It is thus rightly called "electoral authoritarianism" (Guetta, 2021, pp. 47, 39) or "competitive authoritarianism" (Műller, 2019, p. 57).

It is also safe to say that non-liberal (pluralist) democracy is not the adjustment of liberal democracy but, as Krastev (2007, p. 62) put it, "constitutes the thorough transformation of its essence". The political system in the structural and functional meaning changes. It should be added that a change brought about by non-liberal (populist) democracy does not have to be permanent and may be subject to erosion. It is because the consolidation of democracy, in any form, is a long-term process. Thus, it is a commonly held view that there are at least three scenarios concerning the consolidation of or a retreat from non-liberal democracy.

The first of them, as Antoszewski (2018, p. 24) points out, concerns the possibility of seizing power by the liberal opposition. It is a very optimistic option, which assumes that the pro-liberal opposition will gain power due to elections. What is a necessary condition is the functioning – within the system of non-liberal democracy – of free media and political parties which would be able to form the parliamentary majority after the elections (give up ideological divisions or political aspirations for the sake of restoring liberal democracy). In this context, restoring the liberal democratic order must involve building its new quality (Zielonka, 2018, pp. 230–252). That is why it is proposed that a sufficient parliamentary majority be formed to strengthen the constitution and the representative system. Moreover, the political elites in reborn liberal democracy should cope with many serious social problems, such as social inequalities or the need to introduce stricter regulations regarding social media. These elements are conducive to the process of the consolidation of non-liberal democracy. Their absence, in turn, results in a retreat from liberal democracy and the phenomenon in which a "non-liberal revolution at the ballot boxes could be replaced by a liberal counterrevolution, with all its negative consequences" (Antoszewski, 2018).

The risk that this will happen is reduced in the face of historical events, which prove that non-liberal democracy is a straight way towards authoritarianism. As the experience of Belarus shows, it may be a sudden transition or, like in the case of Russia, a long-term process. The condition that is indicative of entering the phase of authoritarianism concerns the presence of the opposition in the system. As long as non-liberal authorities can win elections, elections are held, and the opposition can participate in them. If re-election becomes impossible, the opposition may be delegalised in the name of the "will of the nation"; thus, elections will no longer be free, and the system cannot be referred to as democratic. However, it does not mean that authoritarianism will be consolidated.

It is also likely that the system will be reformulated towards authoritarianism and deviate from liberal democracy. It may turn out that non-liberal democracy will prevail (Antoszewski, 2018). The high level of support for non-liberal rules, the weakness of the opposition (which is divided and unable to create an alternative to non-liberal democracy) and the lack of social mobilisation, as well as the turnover of economic, political and intelligentsia elites by offering promotion opportunities to those previously on the margins of society, enable the consolidation of the principles of non-liberal democracy.

Eggel stresses the importance of two phenomena which prevent the consolidation of non-liberal democracy and give hope for its return to liberal rules. First, he indicated the role of political elites in the opposition and supranational elites – for example, those in the structures of the European Union. Local elites should avoid any joint activities with the advocates of non-liberal democracy as it is a form of legitimising their power among the "silent majority". What should be an additional support to national elites are supranational ones, which, within the framework of the surroundings of the political system, would force the return to the principles of liberal democracy. A good example might be the activity of the EU, which, using financial instruments, can firmly uphold the rule of law in its member states.

However, all these scenarios and their determinants are dependent on civic attitudes. It is also emphasised by Eggel (2018), who writes that "democracy is as strong or free as its citizens", and populists can be beaten at their own game – by appealing to citizens and their political competencies (Plecka, 2015, p. 17). It is not easy to decide which of these competencies is the most important, but along with the knowledge of politics, political values or civic activities, one should pay attention to the element which connects all of them, i.e., the culture of social trust (Marszałek-Kawa & Plecka, 2018, p. 25).

It is widely believed that without a culture of social trust, it is impossible to shape and solidify social capital, consolidate democracy and promote citizens' participation in political life. However, as the analysts of social trust culture often emphasise, this kind of trust must be separated from the political trust. It is because one can trust your loved ones, workmates or friends but cannot trust politicians. At the same time, it is stressed that there is a clear division between trust/distrust in people and believing in institutions (Newton, 2009, p. 409).

Another factor differentiating social and political trust is the fact that the former belongs to specific phenomena – based on direct interactions with others. In turn, the immanent feature of political trust is its abstraction stemming from general information about a situation or related people. However, one should remember that this information is incomplete and whether it is acquired depends on the level of citizens' interest in politics. It does not change the fact that trust in the democratic regime is the precondition for the efficient operations of the democratic state, but, at the same time, it is also their consequence. It is because democracy is the only type of political regime that creates mechanisms of responsibility for the actions taken by authorities and citizens. Thus, it can be said that it provides different contexts for the self-limitation of the activity of political elites and ordinary people (Sztompka, 2007, p. 178).

Therefore, a certain paradox arises. Liberal democracy creates control mechanisms that can be deemed an expression of social and political distrust. As the contemporary researchers of this phenomenon point out, what is an inseparable element of the democratic regime are different types of tensions (for example, related to the economic sphere) and contestation (Rosanvallon 2011, p. 15). Thus, this assumption undermines the existence of the social trust phenomenon, which, as Pierre Rosanvallon (2011) indicates, "fulfils at least three functions. First, "it leads to the extension of the quality of legitimacy, adding the moral dimension to its strictly procedural character (…), as well as substantial (…). Trust also plays a certain role, so to speak, temporal one: it allows attributing the feature of duration in time to this extended legitimacy. (…) It is also the institutional savings factor which enables managing without the whole set of verification mechanisms and tests". Social trust defined in this way coexists with legitimacy in liberal democracy.

Contrary to certain views, social distrust was and is the determinant of social development in two dimensions: liberal and democratic (Rosanvallon, 2011, p. 10). First of all, social distrust is aimed at preventing the accumulation of power through "creating a weak

government and the institutionalisation of suspiciousness". Thus, liberal distrust serves such a form of government which would not never become authoritarian. What was the consequence of this type of social distrust was Montesquieu's project of the separation of power. As a result, distrust means distance from authorities, even those chosen in universal elections, "by the will of the nation" (Rosanvallon, 2011).

However, important for the paper's deliberations is the other kind of social distrust, i.e., democratic distrust. "Its essence is to ensure that the elected authorities meet their obligation and to find resources to maintain the original requirements concerning service for the common good" (Rosanvallon, 2011). It may organise itself in many ways – through social supervision over authorities, through putting multiple obstacles (e.g., strikes and protests) and, finally, through appealing to judicial power (e.g., through class action against the state for not keeping electoral promises). This form of social distrust is referred to as a new kind of democracy – counter-democracy, which assumes the form of organised distrust, being the basis for preventing the consolidation of non-liberal democracy, but also the condition that it will not turn into authoritarianism.

Living in a culture of social distrust paradoxically contributes to the development of liberal democracy in its new form of counter-democracy. At its base is political civic competence which is an obstacle to the consolidation of non-liberal democracy and gives hope for coming out of the crisis of liberal democracy towards its new formula with the involved citizen as the central category of the system.

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